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2
3 UNITED STATES DISTRICT COURT
4 CENTRAL DISTRICT OF CALIFORNIA
5

6 Plaintiff(s),)

7)
8 v.)

9)
10 Defendant(s).)
_____)

PRETRIAL AND TRIAL ORDER

[Updated 11-3-2020]

11 **I. FINAL PRETRIAL CONFERENCE**

12 **A. The Conference**

13 A final pretrial conference date has been set pursuant to Rule 16 of the Federal
14 Rules of Civil Procedure and Local Rule 16-8. Unless excused for good cause, each
15 party appearing in this action must be represented at the final pretrial conference by
16 the lead trial counsel for that party. Counsel should be prepared to discuss
17 streamlining the trial, including presentation of testimony by deposition excerpts or
18 summaries, time limits, stipulations as to undisputed facts, and qualification of experts
19 by admitted resumes.

20 Counsel must be prepared to discuss the following matters at the Pretrial
21 Conference:

- 22
- 23 • Jury selection procedures;
 - 24 • Witnesses each party intends to call, including (i) the time
25 anticipated for each witness (direct and cross), (ii) witness
26 scheduling issues, and (iii) interpreter needs;
 - 27 • Evidentiary issues, including anticipated objections to exhibits,
28 opening statements, and under Rule 403;

- Pretrial motions, including motions in limine, to bifurcate, and to sever;
- Jury Instructions, including any disputed jury instructions; and
- Time Limits.

B. Pretrial Conference Documents

1. Binder-Ready Documents

All pretrial conference documents must be delivered to the Court “binder-ready” (i.e., three-hole punched on the left side, without blue-backs or staples, and separated by labeled dividers).

2. Local Rule 16

Strict compliance with Local Rule 16 is required by all parties. Carefully prepared memoranda of contentions of fact and law, witness lists, a joint exhibit list, and a proposed final pretrial conference order must be submitted in accordance with the Local Rules, and the format of the proposed final pretrial conference order must conform to the format set forth in Appendix A to the Local Rules. Failure to comply may result in the continuance of the final pretrial conference and sanctions.

3. Filing Schedule

The filing schedule for pretrial documents is set forth below.

- a. At least *four weeks* before the final pretrial conference:
 - Memoranda of contentions of fact and law
 - Witness lists
 - Joint exhibit list
 - Motions in limine
 - Joint status report regarding settlement
 - Proposed findings of fact and conclusions of law (court trial only)
 - Direct testimony declarations, if ordered (court trial only)

- b. At least *two weeks* before the final pretrial conference:
 - Proposed final pretrial conference order
 - Proposed jury instructions, agreed and disputed (jury trial only)
 - Joint proposed verdict forms (jury trial only)
 - Joint proposed statement of the case (jury trial only)
 - Proposed additional voir dire questions, if desired (jury trial only)
 - Oppositions to motions in limine
 - Evidentiary objections to direct testimony declarations (court trial only)
- c. At least *one week* before the final pretrial conference:
 - Trial briefs (if desired)

4. Witness Lists

In addition to the requirements of Local Rule 16, the witness lists must include a brief description (one or two paragraphs) of the testimony and a time estimate for both direct and cross-examination (separately stated), as follows:

1. John Smith	50 min. (30 min. direct/20 min. cross)
He will testify _____.	

C. Further Instruction on Pretrial Conference Documents

1. Motions in Limine

Each party is limited to five motions in limine, absent leave of Court. All motions and oppositions are limited to seven pages in length. All motions in limine must be filed at least four weeks before the final pretrial conference; oppositions must be filed at least two weeks before the final pretrial conference; reply briefs will not be accepted. Counsel are to meet and confer with opposing counsel to determine whether

1 opposing counsel intend to introduce the disputed evidence and to attempt to reach an
2 agreement that would obviate the motion. Motions in limine should address specific
3 issues (e.g., not “to exclude all hearsay”) and should not be disguised motions for
4 summary adjudication of issues.

5 2. Statement of the Case

6 At the time of filing the proposed final pretrial conference order, counsel should
7 file a jointly prepared one- or two-page statement of the case to be read by the Court
8 to the prospective panel of jurors before commencement of voir dire.

9 3. Voir Dire

10 The Court will conduct the voir dire. The Court provides a list of basic
11 questions before voir dire. Counsel may, but are not required to, file and submit
12 (electronically to the Chambers email box and in paper form) a list of proposed case-
13 specific voir dire questions at the time they file the proposed final pretrial conference
14 order. Generally, the Court will select eight jurors.

15 4. Jury Instructions

16 Pursuant to Local Rule 16-2, lead trial counsel for each party are required to
17 meet and confer in person. The Court expects strict compliance with Local Rule 16-2.
18 Fourteen days before the Local Rule 16-2 meeting, the parties must exchange their
19 respective proposed jury instructions and special verdict forms. Ten days prior to the
20 Local Rule 16-2 meeting, each party must serve objections to the other’s instructions
21 and verdict forms. Before or at the Rule 16-2 meeting, counsel are ordered to meet
22 and attempt to come to agreement on the proposed jury instructions and verdict forms.

23 At the time of filing the proposed final pretrial conference order, counsel must
24 file with the Court a *joint* set of jury instructions on which there is agreement. All
25 blanks in standard forms must be filled in. The Court expects counsel to agree on the
26 vast majority of jury instructions, particularly when pattern or model instructions
27 provide a statement of applicable law. If one party fails to comply with the provisions
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1 of this section, the other party must file a unilateral set of jury instructions with an
2 explanatory declaration.

3 At the same time, each party must file its proposed jury instructions that are
4 objected to by any other party. Each disputed instruction must have attached on one
5 page: (a) a short statement (one or two paragraphs), including points and authorities,
6 in support of the instruction; and (b) a short statement (one or two paragraphs),
7 including points and authorities, in support of any objections. If applicable, a
8 proposed alternative instruction must be provided.

9 When the Manual of Model Jury Instructions for the Ninth Circuit provides an
10 applicable jury instruction, the parties should submit the most recent version,
11 modified, and supplemented to fit the circumstances of this case. Where California
12 law applies, counsel should use the current edition of the Judicial Council of
13 California Civil Jury Instructions (“CACI”). If neither is applicable, counsel should
14 consult the current edition of O’Malley, et al., Federal Jury Practice and Instructions.
15 Each requested instruction must: (a) cite the authority or source of the instruction; (b)
16 be set forth in full; (c) be on a separate page; (d) be numbered; (e) cover only one
17 subject or principle of law; and (f) not repeat principles of law contained in any other
18 requested instruction. Counsel may submit alternatives to these instructions only if
19 counsel has a reasoned argument that they do not properly state the law or are
20 incomplete.

21 Counsel must provide the following documents to the Chambers email box in
22 Word format at the time they file their proposed jury instructions: (i) the joint set of
23 instructions and disputed instructions as described above; and (ii) a “clean” set of jury
24 instructions containing only the text of the instruction (one per page) with the caption
25 “Instruction No. ___” at the top (eliminating titles, supporting authority, etc. and able to
26 be sent to the jury room).

Counsel must provide an index of all instructions submitted, which must include the following: (a) the number of the instruction; (b) the title of the instruction; (c) the source of the instruction and any relevant case citations; and (d) the page number of the instruction. Example:

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page Number</u>
1	Trademark-Defined (15.U.S.C. § 1127)	9th Cir. 8.5.1	1

During the trial and before argument, the Court will meet with counsel and settle the instructions.

II. TRIAL: CONDUCT OF ATTORNEYS AND PARTIES

A. Promptness of Counsel and Witnesses

1. The Court strictly requires the parties, their counsel, and their witnesses to be on time for all trial proceedings. The Court will not delay the trial or inconvenience jurors.

2. No presenting party may be without witnesses. If a party's remaining witnesses are not immediately available, the Court may deem that party to have rested.

3. If a witness was on the stand at a recess (of any length), counsel who called the witness must ensure the witness resumes the stand immediately prior to when trial restarts.

3. Counsel must notify the Courtroom Deputy Clerk ("CRD") in advance if any witness should be accommodated based on a disability or for other reasons.

4. The Court attempts to cooperate with professional witnesses and will accommodate them by permitting them to be called out of order, except in extraordinary circumstances. Counsel calling such witnesses must anticipate any potential need for accommodation and discuss it promptly with opposing counsel. If a

1 party objects to an accommodation, counsel must meet and confer in advance of
2 raising the objection before the Court.

3 **B. General Decorum**

4 1. All Rise

5 Counsel should rise when addressing the Court, and when the Court or the jury
6 enters or leaves the courtroom, unless unable to do so or directed otherwise.

7 2. Permission to Approach

8 Absent court permission, counsel should not approach the CRD or the witness
9 box. When permission is granted, counsel must return to the lectern when the purpose
10 for approaching has been accomplished.

11 3. Leaving Counsel Table

12 Absent court permission, counsel should not leave counsel table to confer with
13 anyone in the back or outside the courtroom while court is in session.

14 4. Addressing the Court

15 Counsel must address all remarks to the Court. Counsel must not address the
16 CRD, the court reporter, persons in the audience, or opposing counsel. Any request to
17 re-read questions or answers must be addressed to the Court. Counsel must ask the
18 Court's permission to speak with opposing counsel.

19 5. Addressing Witnesses

20 Except for witnesses under 14 years old, counsel must not address or refer to
21 witnesses or parties by first names alone.

22 6. Stipulations

23 Counsel must not offer a stipulation unless the party offering the stipulation
24 previously obtained agreement to the stipulation, including the specific wording.

25 7. Reacting to Witness Testimony

26 Counsel must not express approval or disapproval of witness testimony,
27 including by verbal utterances (e.g., "Wow!") or nonverbal means (e.g., by facial
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expressions or head nods). Counsel must admonish their clients and witnesses not to engage in such conduct.

8. Communicating with Jurors

Counsel must not talk to jurors, except when addressing them during opening statements and closing arguments. Counsel should not talk to co-counsel, opposing counsel, witnesses, or clients where the conversation can be overheard by jurors. Each counsel should admonish counsel's own clients and witnesses to avoid such conduct.

9. One Lawyer Per Party Per Witness

Where a party has more than one lawyer, only one lawyer may examine, or object to, a particular witness.

C. Opening Statements, Examining Witnesses, and Summation

1. Counsel must use the lectern.

2. Counsel must not consume time by writing out words, drawing charts or diagrams, etc. Counsel must prepare such materials in advance.

D. Objections to Questions

1. When objecting, counsel must rise and state only the objection and the legal ground of the objection (e.g., "Objection, hearsay"). If counsel wishes to argue an objection, counsel must ask permission to do so (e.g., "May I be heard?").

2. Counsel must not use objections to guide the witness, recapitulate testimony, or communicate with the jury.

E. Trial Exhibits

1. Exhibits must be placed in three-ring binders indexed by exhibit number with tabs or dividers on the right side. Counsel must submit to the Court an original and copy of the binders. The spine portion of the binder must indicate the volume number and each volume must contain an index of each exhibit included therein.

1 2. The Court requires that the following be submitted to the CRD on
2 the first day of trial:

- 3 • One binder (or set of binders) of original exhibits with the
4 Court's exhibit tags, yellow tags for plaintiff and blue tags
5 for defendant, stapled to the front of the exhibit on the upper
6 right-hand corner with the case number, case name, and
7 exhibit number placed on each tag.
 - 8 ○ All exhibits (except those to be used for
9 impeachment only) should have official exhibit
10 tags attached and bear the same number shown on
11 the exhibit list. Digital exhibit tags are available
12 on the Court's [website](#) (Form G-14A plaintiff,
13 Form G-14B defendant) and may be used in place
14 of the tags obtained from the Clerk's office. The
15 defense exhibit numbers must not duplicate
16 plaintiff's numbers. If counsel intends to use an
17 enlargement of an existing exhibit, it must be
18 designated with the number of the original exhibit
19 followed by an "A."
- 20 • Two binders (or sets of binders) with a copy of each exhibit
21 tabbed with numbers as described above for use by the
22 Court. (Exhibit tags are not necessary on these copies.)
- 23 • Three copies of the party's (or joint) witness list in the order
24 in which the witnesses may be called to testify.
- 25 • Three copies of the joint exhibit list in the form specified in
26 Local Rule 16-5 (Civil), which must also be sent in a Word
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document to the Chambers email no later than noon on the Monday before trial.

3. A copy of the exhibit list with all admitted exhibits will be given to the jury during deliberations. Counsel must review and approve the exhibit list with the CRD before the list is given to the jury.

4. Where a significant number of exhibits will be admitted, the Court encourages counsel, preferably by agreement, to consider ways in which testimony about exhibits may be made intelligible to the jury while it is being presented. Counsel should consider such devices as overhead projectors, jury notebooks for admitted exhibits, or enlargements of important exhibits. The Court has various equipment available for use during trial. Details are posted on the Court's [website](#). To make reservations for training, call the Courtroom Technology Help Desk at 213-894-3061. Counsel is responsible for learning the use of the technology before trial. Trial will not be interrupted for this purpose. The Court does not permit exhibits to be "published" by passing them up and down the jury box. Exhibits may be displayed briefly using the screens in the courtroom, unless the process becomes too time-consuming.

5. All counsel are to meet not later than ten days before trial and to stipulate, so far as possible, to foundation, waiver of the best evidence rule, and those exhibits that may be received into evidence at the start of the trial. The exhibits to be so received will be noted on the Court's copy of the exhibit list.

F. Court Reporter

Any party requesting special court reporter services for any hearing (i.e., real time transmission, daily transcripts) must notify the reporter at least two weeks before the hearing date.

1 The CRD will serve a copy of this Order personally or by mail on counsel for
2 all parties to this action.
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4 **IT IS SO ORDERED.**
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6 Dated: November 3, 2020

7 Stanley Blumenfeld, Jr.
8 United States District Court Judge
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